

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL 1184

By: Adkins

COMMITTEE SUBSTITUTE

An act relating to public health and safety; amending 63 O.S. 1991, Sections 1-701, as amended by Section 5, Chapter 231, O.S.L. 1995, 1-702, as amended by Section 49, Chapter 354, O.S.L. 1996, 1-704, as amended by Section 13, Chapter 269, O.S.L. 1993, 1-705, 1-706, 1-707, 1-707a, as amended by Section 1, Chapter 134, O.S.L. 1995 and 1-707b, as last amended by Section 6, Chapter 358, O.S.L. 1995 (63 O.S. Supp. 1998, Sections 1-701, 1-702, 1-704, 1-707a and 1-707b), which relate to hospitals; modifying, deleting and adding definitions; clarifying language; deleting references to related institutions and to certain treatment facilities; adding to content of rules and standards; creating the Oklahoma Hospital Advisory Council; providing for appointment, removal and duties; specifying terms; providing for compensation; amending Section 12, Chapter 139, O.S.L. 1992 (63 O.S. Supp. 1998, Section 1-1970), which relates to the Home Health Advisory Board; modifying appointment procedures; requiring reimbursement; repealing Sections 1, 2, 3, 4 and 5, Chapter 226, O.S.L. 1994 (63 O.S. Supp. 1998, Sections 1-706.1, 1-706.2, 1-706.3, 1-706.4 and 1-706.5), which relate to the Oklahoma Rural Primary Care Hospital and Emergency Medical Services Act; repealing 63 O.S. 1991, Section 2550, which relates to the licensing of certain laboratories; repealing 63 O.S. 1991, Sections 1-710, 1-712, 1-714, 1-715, 1-716, 1-717, 1-718, 1-720 and 1-721, which relate to definitions, the State Hospital Planning Advisory Council, certain grants, certain state plans for construction of public and other nonprofit hospitals, contents of state plans, reports, and approval requirements, right to deny to certain groups the authority to construct certain hospitals, and certain transfer of duties; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 63 O.S. 1991, Section 1-701, as amended by Section 5, Chapter 231, O.S.L. 1995 (63 O.S. Supp. 1998, Section 1-701), is amended to read as follows:

Section 1-701. For the purposes of this article:

1. "Hospital" means any institution, place, building or agency, public or private, whether organized for profit or not, devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care of patients admitted for overnight stay or longer in order to obtain medical care, surgical care, obstetrical care, or nursing care for illness, disease, injury, infirmity, or deformity. Except as otherwise provided by paragraph 5 of this subsection, places where pregnant females are admitted and receive care incident to pregnancy, abortion or delivery shall be considered to be a "hospital" within the meaning of this article, regardless of the number of patients received or the duration of their stay. The term "hospital" includes general ~~and~~ medical surgical hospitals, specialized hospitals, ~~tuberculosis sanatoria, maternity homes, lying-in homes, and homes for unwed mothers in which care is given during delivery.~~ critical access and emergency hospitals, and birthing centers;

2. "General medical surgical hospital" means a hospital maintained for the purpose of providing hospital care in a broad category of illness and injury-;

3. "Specialized hospital" means a hospital maintained for the purpose of providing hospital care in a certain category, or categories, of illness and injury-;

4. "~~Related institution" means an institution, or an industrial or other type of infirmary, providing limited medical or surgical care to ill or injured persons on a temporary basis, or a birthing center.~~ Critical access hospital" means a hospital determined by the State Department of Health to be a necessary provider of health care services to residents of a rural community;

5. "Emergency hospital" means a hospital that provides emergency treatment and stabilization services on a 24-hour basis that has the ability to admit and treat patients for short periods of time;

6. "Birthing center" means any facility, place or institution, which is maintained or established primarily for the purpose of providing services of a certified midwife or licensed medical doctor to assist or attend a woman in delivery and birth, and where a woman is scheduled in advance to give birth following a normal, uncomplicated, low-risk pregnancy. Provided, however, licensure for a birthing center shall not be compulsory; and

~~6.~~ 7. "Day treatment program" means nonresidential, partial hospitalization programs, day treatment programs, and day hospital programs as defined by subsection A of Section ~~1 of this act~~ 175.20 of Title 10 of the Oklahoma Statutes.

SECTION 2. AMENDATORY 63 O.S. 1991, Section 1-702, as amended by Section 49, Chapter 354, O.S.L. 1996 (63 O.S. Supp. 1998, Section 1-702), is amended to read as follows:

Section 1-702. A. It shall be unlawful for any person to establish, operate or maintain in the State of Oklahoma ~~any a~~ a hospital ~~or related institution~~ without first obtaining a license therefor in the manner hereinafter provided. Hospitals operated by the federal government, state mental hospitals, and community-based structured crisis centers, as defined in Section 3-317 of Title 43A of the Oklahoma Statutes, shall be exempt from the provisions of this article.

B. A hospital may be licensed as a general medical surgical hospital with one or more specialty services or combination of specialty services in a single license.

C. Nothing in this article shall authorize any person to engage, in any manner, in the practice of the healing arts.

SECTION 3. AMENDATORY 63 O.S. 1991, Section 1-704, as amended by Section 13, Chapter 269, O.S.L. 1993 (63 O.S. Supp. 1998, Section 1-704), is amended to read as follows:

Section 1-704. A. 1. The application by any person for a license to operate a hospital ~~or related institution~~ within the

meaning of this article shall be accompanied by a fee to be determined by the number of beds available for patients, to be established by the State Board of Health, but not to exceed Ten Dollars (\$10.00) for each bed included in the maximum bed capacity at such facility.

2. For the purpose of determining the fee, the total number of beds shall include cribs and bassinets.

B. No such fee shall be refunded unless licensure is refused. All licenses shall be for a period of twelve (12) months from the date of issue. Provided that licenses may be issued for a period of more than twelve (12) months, but not more than twenty-four (24) months, for the license period immediately following the enactment of this provision in order to permit an equitable distribution of license expiration dates to all months of the year.

C. Fees for such extended licensure period shall be prorated according to the total months to be licensed, with such amounts to be calculated to the nearest dollar.

D. All licenses:

1. ~~shall~~ Shall be on a form prescribed by the State Commissioner of Health, and shall not be transferable or assignable;i

2. ~~shall~~ Shall be issued only for the premises named in the application;i

3. ~~shall~~ Shall be posted in a conspicuous place on the licensed premises;i and

4. ~~may~~ May be renewed for twelve-month periods upon application, investigation and payment of license fee, as in the case of procurement of an original license.

SECTION 4. AMENDATORY 63 O.S. 1991, Section 1-705, is amended to read as follows:

Section 1-705. A. The State Board of Health, upon recommendation of the State Commissioner of Health and with the

advice of the ~~Health Facilities~~ Oklahoma Hospital Advisory Council hereinafter provided for, shall ~~adopt~~ promulgate rules, ~~regulations~~ and standards for the construction and operation of hospitals ~~and related institutions~~, for which licenses are required by the terms of this article, to provide for the proper care of patients. The ~~adoption~~ promulgation of rules ~~and regulations~~ shall be subject to and be governed by the provisions of ~~House Bill No. 865 Of the Twenty-ninth Legislature~~ the Administrative Procedures Act.

B. Every hospital ~~and related institution~~ shall be periodically inspected by an authorized representative of the Commissioner, ~~and reports~~. Reports of such inspections shall be on forms prescribed by the Commissioner, who shall, after receipt of such reports, take such action as ~~he deems~~ deemed necessary by the Commission to have corrected any deficiencies or violations of the rules, ~~regulations~~ and standards of the Board, ~~shown~~ in such reports.

C. Hospitals ~~and related institutions~~ licensed ~~under~~ pursuant to the provisions of this article shall not be exempt from being inspected or licensed under laws relating to hotels, restaurants, lodging houses, boarding houses and places of refreshment.

D. 1. Every hospital ~~and related institution as defined by Section 1-710 of this title and chemical dependency treatment facilities, other than group homes, halfway houses and transitional living facilities, licensed by the Department~~ that offers or provides inpatient psychiatric or chemical dependency treatment services to persons eighteen (18) years of age or younger shall offer, provide or otherwise make available community-based programs and services and may make ~~said~~ such programs and services available directly, through contract, or other appropriate means as determined by the State Department of Health.

2. For the purposes of this subsection the term "community-based services" shall have the same meaning as ~~said~~ such

term is defined by Section ~~1101~~ 7001-1.3 of Title 10 of the Oklahoma Statutes.

SECTION 5. AMENDATORY 63 O.S. 1991, Section 1-706, is amended to read as follows:

Section 1-706. ~~(a)~~ A. The State Commissioner of Health shall issue licenses for the operation of hospitals ~~and related institutions~~ found to comply with the provisions of this article and ~~standards,~~ rules and ~~regulations~~ standards of the State Board of Health.

~~(b)~~ B. The Commissioner may suspend or revoke any such license on any of the following grounds:

~~(1)~~ 1. ~~violation~~ Violation of any of the provisions of this article, or rules, ~~regulations~~ or standards ~~adopted~~ promulgated pursuant thereto;
;

~~(2)~~ 2. ~~permitting~~ Permitting, aiding or abetting the commission of any illegal act in the licensed hospital or institution;
; or

~~(3)~~ 3. ~~conduct of~~ Conduct or practices deemed by the Commissioner to be detrimental to the welfare of the patients of the hospital or institution.

~~(c)~~ C. If a license is revoked, a new application for license shall be considered by the Commissioner on receipt of evidence that the conditions upon which revocation was based have been corrected,
and ~~a.~~ A new license may then be granted after proper inspection has been made and all provisions of this article and ~~standards,~~ rules and ~~regulations~~ standards of the State Board of Health have been satisfied.

SECTION 6. AMENDATORY 63 O.S. 1991, Section 1-707, is amended to read as follows:

Section 1-707. A. The State Board of Health, upon the recommendation of the State Commissioner of Health and with the advice of the ~~State~~ Oklahoma Hospital Advisory Council ~~hereinafter provided for,~~ shall ~~adopt such~~ promulgate rules, ~~regulations~~ and

standards as it deems to be in the public interest for hospitals ~~and related institutions~~, on the following:

1. Construction plans and location, including fees not to exceed Two Thousand Dollars (\$2,000.00) for submission or resubmission of architectural and building plans, and procedures to ensure the timely review of such plans by the State Department of Health;

2. ~~physical~~ Physical plant and facilities;

3. ~~fire~~ Fire protection and safety;

4. ~~food~~ Food service;

5. ~~reports~~ Reports and records;

6. ~~staffing~~ Staffing and personal service;

7. ~~surgical~~ Surgical facilities and equipment;

8. ~~maternity~~ Maternity facilities and equipment;

9. ~~control~~ Control of communicable disease;

10. ~~sanitation~~ Sanitation;

11. ~~laboratory~~ Laboratory services;

12. ~~nursing~~ Nursing facilities and equipment; and

13. ~~other~~ Other items as may be deemed necessary to carry out the purposes of this article.

B. 1. The State Board of Health, upon the recommendation of the State Commissioner of Health and with the advice of the ~~State Oklahoma~~ Hospital Advisory Council and ~~with the advice of~~ the State Board of Pharmacy, shall ~~adopt such~~ promulgate rules, ~~regulations~~ and standards as it deems to be in the public interest with respect to the storage and dispensing of drugs and medications for hospital patients;.

2. ~~the~~ The State Board of Pharmacy shall be empowered to inspect drug facilities in licensed hospitals and shall report violations of applicable statutes and ~~regulations~~ rules to the State ~~Board~~ Department of Health for action and reply.

C. 1. The Commissioner shall appoint an Oklahoma Hospital Advisory Council to advise the Board, the Commissioner and the Department regarding hospital operations and to recommend actions to improve patient care.

2. The Advisory Council shall have the duty and authority to:

a. review and approve in its advisory capacity rules and standards for hospital licensure,

b. evaluate, review and make recommendations regarding Department licensure activities, and

c. recommend and approve:

(1) quality indicators and data submission requirements for hospitals, and

(2) the indicators and data to be used by the Department to monitor compliance with licensure requirements, and

d. to publish an annual report of hospital performance.

D. 1. The Advisory Council shall be composed of nine (9) members appointed by the Commissioner with the advice and consent of the Board. The membership of the Advisory Council shall be as follows:

a. two members shall be hospital administrators of licensed hospitals,

b. two members shall be licensed physicians or practitioners who have current privileges to provide services in hospitals,

c. two members shall be hospital employees, and

d. three members shall be citizens representing the public who:

(1) are not hospital employees,

(2) do not hold hospital staff appointments, and

(3) are not members of hospital governing boards.

2. a. Advisory Council members shall be appointed for three-year terms except the initial terms after November 1, 1999, of one hospital administrator, one licensed physician or practitioner, one hospital employee, and one public member shall be one (1) year. The initial terms after the effective date of this act of one hospital administrator, one licensed physician or practitioner, one hospital employee, and one public member shall be two (2) years. The initial terms of all other members shall be three (3) years. After initial appointments to the Council, members shall be appointed to three-year terms.
- b. Members of the Advisory Council may be removed by the Commissioner for cause.

E. The Advisory Council shall meet on a quarterly basis and shall annually elect from among its members a chairperson. Members of the Council shall serve without compensation but shall be reimbursed by the Department for travel expenses related to their service as authorized by the State Travel Reimbursement Act.

SECTION 7. AMENDATORY 63 O.S. 1991, Section 1-707a, as amended by Section 1, Chapter 134, O.S.L. 1995 (63 O.S. Supp. 1998, Section 1-707a), is amended to read as follows:

Section 1-707a. A. The administrator in charge of each hospital ~~or related institution~~ licensed by the State Commissioner of Health shall accept for consideration each application for professional staff privileges submitted by a person licensed to practice:

1. Medicine by the State Board of Medical Licensure and Supervision;
2. Osteopathy by the State Board of Osteopathy;
3. Podiatry by the State Board of Podiatry; or

4. As a health service psychologist by the Oklahoma State Board of Examiners of Psychologists.

B. The application shall be acted upon by the governing board of the hospital within a reasonable time. A written report of such action shall be furnished to the applicant thereafter.

C. If a hospital grants staff privileges to a psychologist, at the time of admission of a patient of the psychologist to the hospital, the psychologist or the hospital shall identify a psychiatrist, a medical doctor, or a doctor of osteopathy who shall be responsible for the medical evaluation and medical management of the patient.

SECTION 8. AMENDATORY 63 O.S. 1991, Section 1-707b, as last amended by Section 6, Chapter 358, O.S.L. 1995 (63 O.S. Supp. 1998, Section 1-707b), is amended to read as follows:

Section 1-707b. A. The administrator in charge of or the governing board of each hospital ~~or related institution~~ licensed by the State Commissioner of Health shall adopt written criteria for use in determining which licensed medical doctors, doctors of osteopathy, doctors of podiatry, and health service psychologists shall be granted professional and/or medical staff privileges by the hospital ~~or related institution~~. A licensed hospital ~~or related institution~~ shall not deny an application based solely on the applicant's license, as long as the applicant is licensed to practice:

1. Medicine by the State Board of Medical Licensure and Supervision;
2. Osteopathy by the State Board of Osteopathy;
3. Podiatry by the State Board of Podiatry; or
4. As a health service psychologist by the Oklahoma State Board of Examiners of Psychologists.

B. The accordane and delineation of medical staff membership or clinical privileges shall be determined on an individual basis

commensurate with an applicant's education, training, experience and demonstrated clinical competence.

C. When medical education training and specialty board certification are considerations in the credentialing of physicians, hospitals and health plans shall give equal recognition to those bodies recognized by the federal government for the training and certification of such physicians. Hospitals and health plans shall not discriminate, on the basis of education, against eligible physicians who have:

1. Graduated from medical schools and postdoctoral programs approved by either the American Osteopathic Association or the Accreditation Council for Graduate Medical Education; or

2. ~~Have been~~ Been awarded board eligibility or board certification by specialty boards recognized by either the American Osteopathic Association or the American Board of Medical Specialties.

SECTION 9. AMENDATORY Section 12, Chapter 139, O.S.L. 1992 (63 O.S. Supp. 1998, Section 1-1970), is amended to read as follows:

Section 1-1970. A. There is hereby created a Home Health Advisory Board which shall be composed of seven (7) members as follows:

1. One member who shall be a family practice physician or general practitioner of the medical professions licensed pursuant to the laws of this state and with a practice which includes home health service;

2. One member who shall be a registered nurse licensed pursuant to the laws of this state and whose practice includes home health services;

3. Two members who shall be administrators of home health agencies which shall, subsequent to the effective date of this act and its regulation, be licensed pursuant to this act; and

4. Three members who shall represent the general public and who shall, within twenty-four (24) months of their appointment, be consumers of home health services for themselves or for family members within the third degree of consanguinity.

B. The members of the Home Health Advisory Board shall be appointed by the State Commissioner of Health ~~from a list of names submitted to the Commissioner by any statewide organization comprised exclusively of home care agencies. The lists submitted to the Commissioner shall contain a number of names equal to twice the number of positions to be appointed for each required membership category on the Home Health Advisory Board~~ with the advice and consent of the State Board of Health. Each member shall be appointed for a term of three (3) years except that the initial appointment of the physician and one administrator shall be for one (1) year and the initial appointment of one administrator and one consumer shall be for two (2) years. Vacancies shall be filled in like manner.

C. The State Department of Health shall provide ~~professional and clerical~~ staff to perform the designated duties of the Home Health Advisory Board. The Department shall ~~also~~ provide meeting space for the Advisory Board.

D. The Advisory Board shall annually elect from among its membership a ~~chairman~~ chair. The Home Health Advisory Board shall meet at least quarterly and at such other times as necessary. The members shall serve without compensation but ~~may~~ shall be reimbursed for expenses related to their service by the Department pursuant to the provisions of the State Travel Reimbursement Act, ~~Section 500.1 et seq. of Title 74 of the Oklahoma Statutes~~.

E. The Home Health Advisory Board shall have the power and duty to:

1. Serve as an advisory body to the Department for the development and improvement of services to patients of home health agencies;

2. Review and make recommendations to the State Board of Health regarding rules and standards promulgated by the Board ~~and standards promulgated by the Department;~~

3. Approve, in its advisory capacity, rules and standards promulgated by the Board ~~and the Department;~~ and

4. Evaluate and review the standards, practices and procedures of the Department regarding the administration and enforcement of the provisions of ~~this act~~ the Home Care Act.

SECTION 10. REPEALER Sections 1, 2, 3, 4 and 5, Chapter 226, O.S.L. 1994 (63 O.S. Supp. 1998, Sections 1-706.1, 1-706.2, 1-706.3, 1-706.4 and 1-706.5), are hereby repealed. 63 O.S. 1991, Sections 2550, 1-710, 1-712, 1-714, 1-715, 1-716, 1-717, 1-718, 1-720 and 1-721, are hereby repealed.

SECTION 11. This act shall become effective November 1, 1999.

47-1-1341

CJ

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